

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

TRACY JACKSON,

Plaintiff,

v.

**THE ALTON & SOUTHERN RAILWAY
COMPANY,**

Defendant.

No. 07-CV-0038-DRH

ORDER

HERNDON, District Judge:

Now before the Court is Defendant's January 22, 2007 motion to dismiss Count II of Plaintiff's complaint pursuant to Fed.R.Cvi.P. 12(b)(1) and (6) (Doc. 5). Specifically, Defendant argues that the Court should dismiss Count II for failure to exhaust administrative remedies under the Illinois Human Rights Act. As of this date, Plaintiff has not responded to the motion. Pursuant to **Local Rule 7.1(c)**, the Court finds this failure an admission of the merits of the motion.¹ Thus, the Court **GRANTS** Defendant's motion to dismiss Count II of Plaintiff's complaint (Doc. 5). The Court **DISMISSES without prejudice** Count II of Plaintiff's complaint.

IT IS SO ORDERED.

Signed this 28th day of February, 2007.

/s/ David RHerndon
United States District Judge

¹"An adverse party shall have **thirty (30) days** after the service (see FED. R. CIV. P. 6) of the movant's motion in which to serve and file an answering brief. Failure to timely file an answering brief to a motion may, in the court's discretion, be considered an admission of the merits of the motion." **Local Rule 7.1(c)**.